

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RAUL GARZA TAMEZ	§	
v.	§	CIVIL ACTION NO. 6:07cv362
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING INITIAL REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

The Petitioner Raul Garza Tamez, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On August 1, 2007, the Magistrate Judge issued a Report recommending that Tamez's motion for leave to proceed *in forma pauperis* be denied and that Tamez be required to pay the filing fee of \$5.00. Tamez filed a response to this Report on August 10, 2007, but did not object to the assessment of the fee; rather, Tamez stated that he did not believe that he would have sufficient time in which to do so.

The Court has carefully reviewed the pleadings and records in this cause, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's response to the Report is meritorious, to the extent that he seeks ample time in which to pay the fee. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Petitioner's application for leave to proceed *in forma pauperis*, filed July 30, 2007 (docket no. 2) is DENIED. It is further

ORDERED that the Petitioner shall have until October 1, 2007, in which to pay the statutory habeas corpus fee of \$5.00. Failure to comply with this order or to show good cause for such failure could result in the dismissal of this petition, with or without prejudice, for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P.

SIGNED this 24th day of August, 2007.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE